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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,164	03/30/2001	Naveen Kumar	P5546 US	6290

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SUN MICROSYSTEMS INC
4120 NETWORK CIRCLE
MS USCA12-203
SANTA CLARA, CA 95054

EXAMINER

RUTTEN, JAMES D

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 04/06/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/822,164	Applicant(s) KUMAR, NAVEEN	
	Examiner J. Derek Rutten	Art Unit 2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-30 have been examined.

Drawings

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to because Fig. 2 element 24 contains typos. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. It is not known what the word "heat" is referring to. Also, the word "genented" is likely a typo of the word --generated--. The objection to the drawings will not be held in abeyance.
4. The drawings are objected to because Fig. 3 and Fig. 4 contain images that are not conducive to clear reproduction (See 37 CFR 1.84(l)). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the starting, stopping and monitoring of applications as described in claims 4, 14, and 24, and the ability to modify code of claims 10,

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20, and 30 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: On page 2 paragraph [0002] line 3, the word "experienxced" should be --experienced--.

Appropriate correction is required.

7. The disclosure is objected to because of the following informalities: Page 11, paragraph [0034] makes a reference to "PMF". This acronym has not been defined and is not used elsewhere in the application to provide further context.

Appropriate correction is required.

8. The use of the trademarks "Sun" and "NASDAQ" have been noted in this application on page 11 in paragraph [0036]. They should be capitalized wherever they appear and be **accompanied by the generic terminology.**

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 9 recites the limitation "said user interface" in line 1. There is insufficient antecedent basis for this limitation in the claim. For the purpose of further examination, this limitation has been interpreted as --a user interface--.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-5, 7, 8, 10-15, 17, 18, 20-25, 27, 28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by "Sun Cluster 2.2 API Developer's Guide" by Sun Microsystems, Inc. (hereinafter referred to as "Sun Cluster 2.2").

As per claim 1, Sun Cluster 2.2 discloses:

A method (page 1-2 Section 1.2 paragraph 2: "The remainder of this section describes the three basic **methods** required to make

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any data service run in the Sun Cluster environment.”)

comprising:

a. accepting user specified characteristics of said application and said clustered computer system (page 1-3, Section 1.3.1, paragraph 1: “You must decide whether your **data service** will keep its data in just one or in multiple logical **hosts**.”);

b. generating a code for at least one resource type based on at least one of said input user specified characteristics (page 1-1, Section 1.1, paragraph 1: “This enables you to **code** in a scripting language such as the Bourne shell”), and

c. installing said generated code of said at least one resource type and said application on at least one node of said clustered computer system (page 1-2 Section 1.2 paragraph 2: “At this point, the data service's **software** must be restarted on the surviving host.” Comment: In order to be restarted on a host, the code must have been installed on that host.).

As per claim 2, Sun Cluster 2.2 discloses:

The method of claim 1, wherein said application is a highly available application (page 1-1 paragraph 1).

As per claim 3, Sun Cluster 2.2 discloses:

The method of claim 1, wherein said application is a scalable application (page 1-3 Section 1.3.1 paragraph 3).

As per claim 4, Sun Cluster 2.2. discloses:

The method of claim 1, wherein said resource type performs at least one of the following:

a. starts execution of said application (page 1-2 Section 1.2 paragraph 2);

As per claim 5, Sun Cluster 2.2 discloses:

The method of claim 1, wherein said code of said at least one resource type is a source code (page 1-1 Section 1.1 paragraph 1).

As per claim 7, Sun Cluster 2.2 discloses:

The method of claim 1, wherein said user specified characteristics comprise information on whether said resource type is failover or scalable (page 1-3 Section 1.3.1 paragraph 1).

As per claim 8, Sun Cluster 2.2 discloses:

The method of claim 1, wherein said user specified characteristics comprise information on whether said application is network-aware or non network-aware (page 2-9 Section 2.3 paragraph 1).

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As per claim 10, Sun Cluster 2.2 discloses:

A method of claim 1, wherein said generating of said code further comprises providing said user with an ability to modify said generated code ().

As per claims 11-15, 17, 18, and 20, Sun Cluster 2.2 discloses a computer readable medium (page 1-4 Section 1.3.2. File systems are inherently implemented on a computer readable medium. File systems provide a logical view to data storage and organization on physical media.). Sun Cluster 2.2 also discloses the use of a user interface (page 1-1 Section 1.1 paragraph 1). All other limitations have been addressed in the above rejection of claims 1-5, 7, 8, and 10, respectively.

As per claims 21-25, 27, 28, and 30, Sun Cluster 2.2 discloses a computer system (page "v", Preface, paragraph 1). Sun Cluster 2.2 also discloses the use of a user interface (page 1-1 Section 1.1 paragraph 1). All other limitations have been addressed in the above rejections of claims 1-5, 7, 8, and 10, respectively.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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15. Claims 6, 16, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun Cluster 2.2 as applied to claims 1, 11, and 21, respectively above, and further in view of “Application Packaging Developer’s Guide” by Sun Microsystems, Inc. (hereinafter referred to as “APDG”).

As per claim 6, Sun Cluster 2.2 does not expressly disclose arranging the generated code in to a package.

However, in an analogous environment, APDG teaches that software can be arranged into a collection of files and directories required for a software product after completion of the development of the application code (page 2 paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to assemble Sun Cluster 2.2’s application code into APDG’s package. One of ordinary skill would have been motivated to easily transfer the application code for mass production, distribution and installation.

As per claims 16 and 26, all further limitations have been addressed in the above rejection of claim 6.

16. Claims 9, 19, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun Cluster 2.2 as applied to claims 1, 11, and 21, respectively above, and further in view of U.S. Patent 6,038,677 to Lawlor et al. (hereinafter referred to as “Lawlor”).

As per claim 9, Sun Cluster 2.2 discloses a user interface (page 1-1 Section 1.1 paragraph 1). Sun Cluster 2.2 does not expressly disclose a graphical user interface (GUI).

However, in an analogous environment, Lawlor teaches the use of a graphical user interface to generate configuration code for a cluster application (FIG. 4, column 5 lines 19-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Lawlor's GUI with Sun Cluster 2.2's code generation. One of ordinary skill would have been motivated to provide a management tool to more easily define an application.

As per claims 19 and 29, all further limitations have been addressed in the above rejection of claim 9.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Derek Rutten whose telephone number is (703) 605-5233. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jdr



TUAN DAM
SUPERVISORY PATENT EXAMINER